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10/522,501	01/26/2005	Jurgen Flach	4952-107 US	7571
26817 7590 02/22/2008 MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A. 29 THANET ROAD, SUITE 201 PRINCETON, NJ 08540				
EXAMINER KELLER, MICHAEL J				
ART UNIT		PAPER NUMBER		
4136				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,501

**Applicant(s)**

FLACH, JURGEN

**Examiner**

MICHAEL J. KELLER

**Art Unit**

4136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-30 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 01/26/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on August 19, 2002. It is noted, however, that applicant has not filed a certified copy of the DE 102 37 857 application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor, controller and programmable interface must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: The specification contains numerous grammatical errors, such as "To retrofit of these systems and" on Line 11 of Page 1 and "This makes the system expense" on Line 3 of Page 2. The term "inferred transmitter" which is recited several times on Page 1 appears to be a misspelling of the term "infrared transmitter". The term "week" on Line 4 of Page 2 appears to be a misspelling of "weak". It appears that the phrase "transmitting units are operational" on Line 4 of Page 2 should read "transmitting units are not operational". Appropriate correction is required.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The terms "controller", "command signals", "detector", "detector interface" and "programmable interface" are recited in the claims, but the features described in the specification which appear to correspond to these terms are referred to using different terminology (e.g. the detector recited in the claims is referred to as a sensor in the specification).

***Claim Objections***

5. Claim 25 is objected to because of the following informalities: The phrase "An system" on Line 1 of the claim should read "A system". Appropriate correction is required.
6. Claim 26 is objected to because of the following informalities: It appears that the term "united" on line 3 of the claim is a misspelling of the term "unit". Appropriate correction is required.
7. Claims 24 and 32 are objected to because of the following informalities: It appears that the phrase "further means to learn" in line 2 of the claims was meant to read "further comprises means to learn". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 19, 24, 29 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims recite digital means for programming the predetermined characteristic of the pulsed light signal, and means to learn the predetermined characteristic of the pulsed light signal when said

programmable interface is in a learn mode. These features are not described anywhere in the specification.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 12-30 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "controller", "command signals", "detector", "detector interface" and "programmable interface" are recited in the claims, but the features described in the specification which appear to correspond to these terms are referred to using different terminology. For this reason it is impossible to determine exactly which of the features described in the specification are being claimed.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. **Claims 12, 14, 20, 23, 25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ballentine (U.S. Patent 2,095,688).** Ballentine discloses [claim 12] an external interface to automatically open and or close a door in response to a pulsed light signal having a predetermined characteristic (Page 1 Col. 1 Lines 5-13 and 42-44), a motor (Page 1 Col. 2 Lines 19-21) coupled to the door for moving the door between an

open position and a closed position covering an opening, a controller (reversing switch (4) Page 1 Col. 2 Lines 21-23) controlling operation of the motor in response to received command signals, the external interface comprising:

- a transmitting unit (mercury switch (7) Page 1 Col. 2 Lines 26-32) for generating and transmitting command signals to move the door to the open position;
- at least one detector (photoelectric cells (33,34) Page 2 Col. 1 Lines 34-36) for detecting the pulsed light signal;
- a detector interface (cam disk (12) with pin (10) Page 1 Col. 2 Lines 33-36), for stimulating said transmitting unit to generate and transmit command signals to move the door to the open position, in response to the pulsed light signal;
- a programmable interface (cam lands (20-23) Page 2 Col. 1 Lines 5-10) coupled to said detector interface wherein the predetermined characteristic of the pulsed light signal for said detector interface can be programmed (by distributing the lands about the disc in specific locations);

**[claim 14]** wherein said detector interface is responsive to a predetermined sequence of the pulsed light signal (Page 1 Col. 1 Lines 9-15); **[claim 20]** wherein the external interface further comprises an independent battery source (Page 2 Col. 1 Lines 48-50); **[claim 23]** wherein said at least one detector is a plurality of detectors (Page 1 Col. 2 Lines 33-36).

**Regarding claims 25 and 27**, Ballentine discloses an external interface as applied to claims 12 and 14 above.

14. **Claims 12, 14-16, 22, 25, 27-28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Carbonara (U.S. Patent 2,968,790).** Carbonara discloses [claim 12] an external interface to automatically open and or close a door in response to a pulsed light signal having a predetermined characteristic (Col. 1 Lines 15-18 and 45-46), a motor (Col. 1 Line 31) coupled to the door for moving the door between an open position and a closed position covering an opening, a controller (a switch Col. 1 Line 34) controlling operation of the motor in response to received command signals, the external interface comprising:

- a transmitting unit (cam (80) Col. 6 Lines 7-15) for generating and transmitting command signals to move the door to the open position;
- at least one detector (Col. 1 Lines 45-46) for detecting the pulsed light signal;
- a detector interface (a lock disc, Col. 1 Lines 53-57 and Col. 2 Lines 21-24), for stimulating said transmitting unit to generate and transmit command signals to move the door to the open position, in response to the pulsed light signal;
- a programmable interface (a plurality of spaced tongues, Col. 1 Lines 53-57) coupled to said detector interface wherein the predetermined characteristic of the pulsed light signal for said detector interface can be programmed (according to the spacing of the tongues, Col. 2 Lines 11-16);

**Regarding claims 14-16 and 22**, see Col. 1 Lines 22-25 and 68-71.



**Regarding claims 25, 27-28 and 30**, Carbonara discloses an external interface as applied to claims 12, 14-16 and 22 above.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 13, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballentine (U.S. Patent 2,095,688) in view of Wilson (U.S. Patent 7,167,076).** Ballentine discloses an external interface as applied to claims 12 and 25 above, but does not disclose wherein said transmitting unit further comprises a wireless transmitter, wherein said transmitting unit generates and transmits a coded signal, wherein said transmitting unit is mounted on the door. Wilson discloses a garage door operating system wherein a wireless transmitter (26, Fig. 1a) generates and transmits a coded signal (Col. 3 Lines 34-44). While the transmitter is shown in the figures to be attached to a wall of the garage, not the door, Wilson states that the transmitter (which is held within the control module) could be mounted at any location (Col. 4 Lines 13-16). Because the control module may optionally be powered by batteries (Col. 6 Lines 54-56) the location is not limited by the availability of power outlets. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the external interface of Ballentine with the wireless transmitter of Wilson to allow the

transmitter to be located anywhere in the garage without having to run wiring to the motor controller.

17. **Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballentine (U.S. Patent 2,095,688) in view of Thompson et al. (U.S. Patent 5,978,483).** Ballentine discloses an external interface as applied to claims 12 and 25 above, but does not disclose wherein said programmable interface further comprises jumpers for programming the predetermined characteristic of the pulsed light signal, or wherein said programmable interface further comprises DIP switches for programming the predetermined characteristic of the pulsed light signal. Thompson et al. discloses a remote keyless entry system for preventing access to unauthorized individuals by securely encrypting messages transmitted from a remote transmitter to a receiver. The messages being encrypted with transmitter identification (ID) codes (Col. 2 Lines 52-58). The ID codes may be set using DIP switches or jumpers (Col. 10 Lines 59-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to program the characteristic of the pulsed light signal using DIP switches or jumpers as disclosed in Thompson et al. in order to provide a simpler means of changing the characteristic.

18. **Claims 19, 24, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballentine (U.S. Patent 2,095,688) in view of Fitzgibbon (U.S. Patent 5,751,224).** Ballentine discloses an external interface as applied to claims 12 and 25 above, but does not disclose wherein said programmable interface further comprises digital means for programming the predetermined characteristic of the pulsed

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light signal, and means to learn the predetermined characteristic of the pulsed light signal when said programmable interface is in a learn mode. Fitzgibbon discloses a code learning system for a movable barrier operator which comprises digital means for programming a code (Col. 1 Line 64 to Col. 2 Line 11). Fitzgibbon discloses in the abstract that codes may be programmed while the system is in a learn mode. It would have been obvious to one of ordinary skill in the art at the time of the invention to program the characteristic of the pulsed light signal using the digital means of Ballentine ('688) as taught by Fitzgibbon while the transmitter is in a learn mode since this provides a simpler means of changing the characteristics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. KELLER whose telephone number is (571)270-5219. The examiner can normally be reached on Monday - Thursday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. J. K./

Examiner, Art Unit 4136

/Jerry Redman/

Primary Examiner, Art Unit 3634